

STATE OF NEW YORK : EXECUTIVE DEPARTMENT
STATE DIVISION OF HUMAN RIGHTS

CHRISTOPHER J. HAMLETT,

Complainant,

COMPLAINT

v.

DHR Case No.: _____

CITY OF BINGHAMTON, BINGHAMTON POLICE
DEPARTMENT, and JOHN RYAN, as an AIDER and
ABETTOR,

EEOC Charge No.: _____

Respondent.

Complainant, Christopher J. Hamlett ("Officer Hamlett"), by and through his attorneys, Bousquet Holstein PLLC, charges the Binghamton Police Department (the "Police Department"), with unlawful discriminatory practices relating to employment in connection with Article XV of the Executive Law of the State of New York (the "Human Rights Law"), and Title VII of the Civil Rights Act of 1964, as amended ("Title VII"). This is a joint filing with the Equal Employment Opportunity Commission ("EEOC") pursuant to Title VII. Officer Hamlett's Complaint is based upon the following facts and circumstances:

SUMMARY OF CHARGES

1. Despite consistently outstanding reviews of his work performance as a patrol officer and member of the Police Department's Special Weapons and Tactics Team (the "SWAT Team"), and the support of the Police Chief and other high-ranking officials in the Department, Officer Hamlett was denied promotion to detective by the actions of Detective Captain John Ryan ("Detective Captain Ryan") based solely on his racial status as an African American.

2. The Police Department, its Police Chief, and other Department officials failed to intervene and/or override Detective Captain Ryan's racially-driven efforts to block Officer Hamlett's promotion in spite of:

- (a) Detective Captain Ryan's reputation as a known racist within the Department; and
- (b) Ryan having made racially-charged comments about Hamlett to justify denying his promotion to detective, revealing his race-based motivations.

3. The Police Department not only condoned and encouraged Detective Captain Ryan's improper discriminatory conduct, the Department placed its stamp of approval on his racially biased decision-making and adopted such conduct as its own when it accepted Ryan's illegal race-based treatment of Officer Hamlett.

4. Accordingly, the Police Department has acted in illegally in violation of the Human Rights Law and Title VII. Officer Hamlett seeks all relief available under the law, including, but not limited to, the promotion to detective that he would have received but for Captain Detective Ryan's racial discrimination and the Police Department's ratification of Ryan's racially-motivated animus towards Hamlett.

PARTIES

5. The Complainant, Officer Hamlett, is a resident of the State of New York, residing at 128 Rosedale Drive, Binghamton, New York 13905.

6. Respondent, City of Binghamton, is a municipal corporation organized and existing under, and by virtue of, the laws of the State of New York.

7. Respondent, the Binghamton Police Department, is an agency of Respondent City of Binghamton.

8. Respondent, John Ryan, is employed by Respondent Binghamton Police Department as an officer and captain within the Department.

THE BINGHAMTON POLICE DEPARTMENT

9. The Police Department was founded in 1867. At present, the Department consists of approximately 137 officers. Fewer than 10 of those officers are minorities, including just 4 African Americans.

10. The Department is managed by a Police Chief, who, at all relevant times, has been Joseph Zikuski ("Chief Zikuski").

11. The Department is organized into several divisions, including Patrol Division, Detective Division, Special Investigations Unit, Community Response Team, Traffic Division, Training Division, Juvenile Division, Crime Scene Unit, Crime Prevention Division, Warrant Unit, and the SWAT Team.

12. The Department became a New York State Accredited Police Department in 1993. To this day, the Department touts its State accreditation on its public website.

13. Executive Law § 846-h sets forth the process for the formation of the New York State Law Enforcement Agency Accreditation Council (the "Accreditation Council"), which develops standards for law enforcement agencies in New York, such as the Police Department, and accredits the State's law enforcement agencies.

14. The most recent edition of the Standards and Compliance Verification Manual published by the Accreditation Council makes clear in Administrative Standard 15.1 that a law enforcement agency's promotional process must be nondiscriminatory. To meet this standard for accreditation, a law enforcement agency must develop and implement a written directive governing the process for promotion, and those procedures must be non-discriminatory and job-related. This standard reflects New York State's commitment to eliminate racial bias and other forms of unlawful discrimination in law enforcement hiring and promotion decisions.

15. As a result of its acquiescence in and acceptance of Detective Captain Ryan's racially-driven animus to deny Officer Hamlett a promotion to detective solely because of his African American background, the Police Department has failed to meet this nondiscrimination standard critical to its New York State accreditation. As a result, the Police Department has placed in question its commitment to nondiscrimination, fairness, and justice, both within the police force itself and with respect to the broader community.

OFFICER HAMLETT'S BACKGROUND WITH THE POLICE DEPARTMENT

16. Officer Hamlett has been employed by the Police Department as a Patrol Officer for over 15 years, having joined the Department in 2004.

17. In addition to his duties as a Patrol Officer, Officer Hamlett has also served as a member of the Police Department's SWAT Team for the past 10 years. This is an elite squad of officers who respond to some of the most dangerous and sensitive situations handled by the Police Department. SWAT Team members are selected based on, among other things, a demonstrated commitment to excellence, physical fitness, integrity, judgment, and operational skills.

18. Officer Hamlett has also served as a Field Training Officer ("FTO") for the last 12 years. FTOs are charged with the responsibility of mentoring and training new officers. He has also been a Program Instructor for the Department Pre-Academy, which prepares trainees for the Academy and work in the Department.

19. Throughout his law enforcement career, Officer Hamlett has consistently received exemplary reviews of his work performance.

THE POLICE DEPARTMENT'S APPOINTMENT OF A KNOWN RACIST, JOHN RYAN, AS DETECTIVE CAPTAIN IN JANUARY 2018

20. Within the leadership structure of the Police Department, the Detective Captain is responsible for the day-to-day management of the Detective Division and reports to the Police Chief [and Assistant Police Chief].

21. During the times relevant to this matter, two officers held the Detective Captain position. Prior to his retirement in January 2018, the Detective Captain was John "Jack" Collins. From January 2018 to present, the Detective Captain has been John Ryan. The conduct of Collins is not at issue in this matter.

22. Ryan was appointed as Detective Captain despite having a reputation in the Police Department as a known racist.

23. At least as early as 2015, Police Chief Zikuski told officers in his command, including Lieutenant Alan Quinones ("Lieutenant Quinones"), that John Ryan is a racist and that he refuses to talk or have any relationship with his sister because she has biracial children. These facts – which the Police Chief freely and openly shared with colleagues at retirement party for Captain Christopher Bracco in 2015 – were well-known throughout the Police Department.

24. The appointment of a known racist to a position of authority and managerial responsibility in the Police Department reflects a complete and utter disregard for diverse members of the force and the community-at-large. The fair, nondiscriminatory consideration of diverse candidates for promotion to detective was made impossible when John Ryan was made Detective Captain. It should come as no surprise, then, that every single one of the 19 non-supervisory detectives in the Detective Division are Caucasian. There are another 7 supervisory detectives, all of whom are white, except Daniel Flanders. Flanders is Asian and made Detective as a Sergeant before Ryan became a Detective in the Police Department.

**DETECTIVE CAPTAIN RYAN BLOCKED OFFICER HAMLETT'S PROMOTION TO
DETECTIVE BASED ON UNLAWFUL DISCRIMINATORY ANIMUS**

25. Based on his stellar work performance and demonstrated commitment to the Police Department, numerous Department officials and employees encouraged Officer Hamlett to seek promotion to detective and recommended his promotion over the years, including, but not limited to, Police Chief Zikuski, Assistant Police Chief William Yeager ("Assistant Chief Yeager"), and detectives Chuck Woody and Kevin Miller.

26. Officer Hamlett first sought promotion to detective in 2016, submitting his name as a candidate for the single permanent detective position that was open that year. At that time, the Detective Division was supervised by Captain Collins, who retired in January 2018.

27. Officer Hamlett was not selected for promotion to detective in 2016. After the decision was made to promote another officer, Kyle Kemak, Hamlett met with Assistant Chief Yeager in early 2017 to discuss his continued interest in becoming a detective. Yeager was supportive of Officer Hamlett, explaining that Hamlett was strongly considered in 2016, but that Kemak was promoted because he had unique cell phone "hacking" skills. Yeager encouraged Hamlett to reapply, believing he would be an excellent candidate for the next available detective position. Yeager also suggested that Hamlett speak with the Chief Zikuski.

28. In March 2018, Officer Hamlett met with Chief Zikuski to convey his ongoing desire to become a detective. Chief Zikuski also was supportive, but noted that the new Detective Captain, John Ryan, who the Chief knew to be a racist since at least 2015, would be an obstacle. Despite the Chief's knowledge of Ryan's racism, the Chief apparently was still willing to permit Ryan to determine the career opportunities of diverse officers, such as Officer Hamlett, without regard to the risk of unlawful discrimination in promotion decisions.

29. Officer Hamlett was greatly concerned by Chief Zikuski's comments. He arranged a meeting with Detective Captain Ryan in spring 2018 to discuss his interest in and qualifications for promotion to detective, believing that he could demonstrate his strong qualifications for the posting.

30. During their meeting, Ryan told Hamlett that "one of my issues with you is that you've never been a ball of fire," but he refused to explain what he meant and provided no examples. Ryan also complained that, if Hamlett were promoted to detective, his SWAT Team duties would likely pull him away from detective work, which Ryan viewed as a negative.

31. Upon information and belief, Detective Captain Ryan's "reasons" for disfavoring Officer Hamlett's candidacy for promotion to detective in 2018 were a mere pretext for his discriminatory intent: Ryan did not want a black detective in his division.

32. Indeed, Ryan's vague, unexplained "never been a ball of fire" criticism of Officer Hamlett's performance is contradicted by Hamlett's official reviews and informal feedback from officials throughout the Police Department. As for the SWAT Team comment, Ryan was well aware that several detectives had served as SWAT Team members without any negative impact on their ability to fulfill their detective duties, including Kevin Miller, Carl (Rob) Peters, Robert Burnett and John Zikufki. In any event, Hamlett informed Ryan that he was willing to resign from the SWAT Team, if necessary for promotion to detective.

33. Ryan's "reasons" for blocking Hamlett's promotion to detective later in 2018 were nothing more than excuses to hide his discrimination and dislike of black people. Less qualified white candidates were promoted instead.

34. In spite of the roadblocks set up by Detective Captain Ryan, Officer Hamlett refused to give up on his professional goal of becoming a detective.

35. In May 2018, Officer Hamlett attended the New York Tactical Officers Association Conference. Chief Zikuski and Captain Larry Hendrickson ("Captain Hendrickson"), who at the time supervised the SWAT Team and is a member of the Police Department's Internal Affairs Division, also attended.

36. During the conference, Captain Hendrickson told Chief Zikuski that "Hamlett would be good as a detective." The Chief agreed and stated that he "liked the idea" of Hamlett serving in the dual capacity of detective and SWAT Team member because of financial/budgetary factors.

37. Then, in June 2018, the Police Department was presented with the opportunity to send a limited number of its officers to detective school, *i.e.*, Inside the Tape Homicide and Crime Scene Management Training (the "Detective School"), because it was hosting the training sessions. This Detective School offers training courses for law enforcement agencies in the management of homicide and suspicious death scenes.

38. The Department's leadership met to determine who it would send to the Detective School. Chief Zikuski stated at this meeting that Officer Hamlett was a "good candidate" for detective and that he wanted Hamlett to attend. In particular, Chief Zikuski stated to Captain Hendrickson that "I want Hamlett." Detective Captain Ryan tried to block Hamlett again, responding "I don't think that's a good idea Chief" because "I heard that he'll play the race card if he doesn't get detective," without providing any evidence for such an accusation. This further exposed Ryan as the racist he was already known to be by the Chief and the broader Department.

39. In this instance, Chief Zikuski overruled Ryan, stating "No, he's going." Ryan, however, was undeterred. He subsequently sent an e-mail to Chief Zikuski with recommended attendees for the Detective School that omitted Officer Hamlett. The Chief responded "No, I

told you he's [Hamlett] going." Indeed, despite Ryan's best efforts to undermine Hamlett, the Chief remained a strong supporter of Hamlett for promotion to detective.

40. Chief Zikuski, however, sent Captain Hendrickson to speak with Officer Hamlett about attending the Detective School and Detective Captain Ryan's "race card" comment. When Hendrickson and Hamlett met, Hendrickson explained the foregoing drama regarding attendees for the Detective School. He also asked if Hamlett planned to make any claims of discrimination against Ryan – in other words, if he planned to "play the race card" against a known and practicing racist.

41. Officer Hamlett responded that he had never once used his race to attempt to achieve career advancement, and he indicated that he was offended by the suggestion that he would do so. Hamlett was left to wonder why the Police Department appeared to be more concerned about whether he might make "trouble" than the ongoing racist and discriminatory conduct of Detective Captain Ryan.

42. Hamlett's race was only discussed in the workplace in his presence on a few occasions when other members of the Department approached Hamlett and warned him about Captain Ryan's racism. These incidents are recounted in detail below:

- (a) In March 2018, a detective serving under Captain Ryan approached Officer Hamlett and informed him that "you might have a problem making detective under Ryan." This detective went onto assert that "Ryan is racist" and he further detailed evidence of Ryan's racism, which included the claim that Ryan did not "speak with his sister" because she "has kids with a black guy." This conversation was initiated by the detective serving under Captain Ryan;

(b) In April 2018, Ryan was working with a fellow officer when the officer also initiated a conversation about Captain Ryan's racism. In the conversation, the fellow officer informed Hamlett that he would likely have trouble with advancing to detective under Captain Ryan's leadership. When Officer Hamlett asked the officer why, the officer stated that Captain Ryan was a "racist." This officer indicated that they were friends with members of Ryan's family and knew that he had not spoken to his sister for years because "she has kids with a black guy." Again, the conversation was initiated by the fellow officer;

(c) In October 2018, Officer Hamlett was also approached by a fellow officer and a member of the SWAT team who said "listen, I got to tell you something." The officer went onto explain that he believed Hamlett would have difficulty making detective because "Ryan is a racist." He too, like the others before him, provided examples of Ryan's racism to Hamlett.

43. After the first two of the three conversations discussed in paragraph 42(a) and (b) above, Hamlett was worried about how Ryan might impact his career and he brought these concerns to one of his superior officers, Lieutenant Quinones. In the department locker room in April 2018, Officer Hamlett informed Lieutenant Quinones of the two conversations he had with members of the Police Department and their specific concern that Ryan was a "racist" and would undermine his opportunity to make detective. Lieutenant Quinones avoided providing a direct answer to Hamlett's questions about his promotion chances under Ryan and encouraged him to "just worry about himself" and "let the Chief decide." Quinones also stated that while Ryan would be involved in the promotion decision, it was "ultimately the Chief's decision" and

Hamlett should just "wait it out." It is possible that some of these locker room comments were heard by Officer Hamlett's colleagues.

44. Although he was concerned that Ryan would again block his promotion to detective, Hamlett submitted his name for consideration for open positions in September 2018 on the belief that Chief Zikuski would ensure a fair process. Unfortunately, that did not happen because the Chief improperly delegated the decision to Ryan, despite knowing that Ryan's decision-making was tainted by unlawful discriminatory motives.

45. In November 2018, Officer Hamlett learned that Detective Captain Ryan had again blocked his promotion to detective in favor of less experienced white candidates. Understandably, Hamlett was upset and discussed the issue with, among others, Captain Hendrickson and Lieutenant Quinones. He then attempted to set up a meeting with Chief Zikuski. However, the Chief failed to respond to Hamlett's e-mails.

46. Unlike Hamlett, Lieutenant Quinones had the opportunity to discuss the detective promotion decision with Chief Zikuski. Quinones reminded the Chief about Hamlett's strong qualifications for promotion to detective and asked, "what else can Hamlett do to make detective?" The Chief responded, "what was I supposed to do? John Ryan didn't want him." The Chief further stated that Ryan had again invoked race to justify his decision, claiming that Hamlett would "play the race card" if not selected. As discussed above, Hamlett has never attempted to use his race to obtain a career advantage. However, it is clear that Detective Captain Ryan was all too willing to use Hamlett's race as an unlawful reason to deny him promotion to detective.

47. Despite full knowledge of Ryan's racist views and discrimination in detective promotion decision-making, the Police Department, through Chief Zikuski, permitted and

approved active discrimination. The Chief's response of "what was I supposed to do" in the face of Ryan's racism represents an abject failure to lead and ensure compliance with the law.

**DETECTIVE CAPTAIN RYAN'S PROMOTION TO ASSISTANT POLICE CHIEF
DESPITE HIS DISCRIMINATORY CONDUCT**

48. In early July 2019, the Mayor of Binghamton appointed Ryan to the position of Assistant Police Chief, joining Assistant Chief Yeager in the role.

49. Upon information and belief, the Mayor selected Ryan to replace the retiring David Eggleston as Assistant Chief based on Chief Zikuski's recommendation.

50. Ryan was rewarded with a promotion to Assistant Chief despite his reputation in the Police Department as a racist and his known discrimination against Officer Hamlett and likely other diverse officers.

51. Ryan is currently under investigation by the Department with respect to his unlawful discriminatory conduct and, as a result has not been permitted to take this new role. Based on the facts discussed herein, Ryan should not only be denied this promotion, but summarily dismissed.

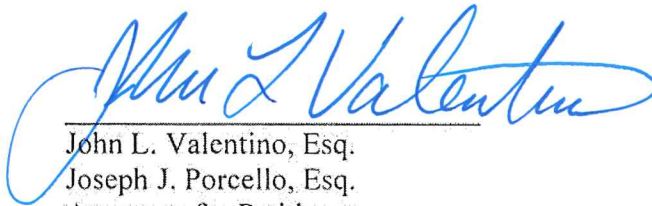
CHARGES

Based on the foregoing, Officer Hamlett charges the Police Department with unlawful acts of discrimination in violation of the Human Rights Law of the State of New York and also charges Captain John Ryan with violating said law as an aider and abettor. Hamlett also charges the Police Department with violating Title VII of the Civil Rights Act of 1964, as amended, and

hereby authorizes the State Division of Human Rights to accept this Complaint on behalf of the EEOC subject to the statutory limitations contained in Title VII.

Dated: August 19, 2019

BOUSQUET HOLSTEIN PLLC



John L. Valentino, Esq.

Joseph J. Porcello, Esq.

Attorneys for Petitioner

110 West Fayette Street, Suite 1000

Syracuse, New York 13202

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VERIFICATION

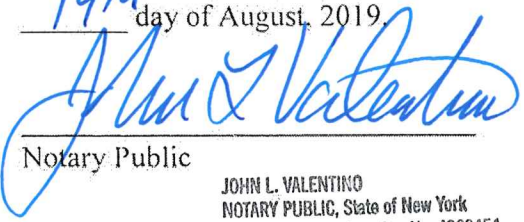
STATE OF NEW YORK)
Onondaga)
BROOME COUNTY) ss.:

Christopher J. Hamlett, being duly sworn, deposes and says he is the Complainant in this action, that he has read the foregoing Complaint and knows the contents thereof, and that the same is true to the knowledge of deponent, except for the matters therein stated to be alleged upon information and belief, and as to those matters, he believes them to be true.



Christopher J. Hamlett

Sworn and subscribed to before me this
19th day of August, 2019.



Notary Public

JOHN L. VALENTINO
NOTARY PUBLIC, State of New York
Qualified in Onondaga Co. No. 4929454
My Commission Expires January 3, *2023*